

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CASEY PHILLIP,

Plaintiff,

-against-

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

09 Civ. 442 (ILG)(JO)

THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF EDUCATION, DAYSI GARCIA,
Principal of P65K, MARTHA RODRIGUEZ-TORRES,
Local Instructional Superintendent,

Defendants.

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PLEASE TAKE NOTICE that, upon defendants the City of New York, the New York City Department of Education, and Daysi Garcia's¹ Local Rule 56.1 Statement of Undisputed Material Facts, dated July 21, 2010; the Declaration of Jane E. Andersen, dated July 21, 2010, and the declaration and exhibits annexed thereto; the accompanying Memorandum of Law in Support of Defendants' Motion for Summary Judgment, dated July 21, 2010, and upon all other pleadings and proceedings herein, defendants will move this Court, at the United States District Court for the Eastern District Court of New York, located at 225 Cadman Plaza East, Brooklyn, New York 11201, before the Honorable I. Leo Glasser, at a time and date to be determined by the Court for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting defendants summary judgment and dismissing all claims in this action.

¹ Upon information and belief, Martha Rodriguez-Torres, who is named as a defendant herein, has not been properly served with the summons and complaint in this action. Plaintiff's attorney purportedly served a copy of the original summons and complaint to an address that is not her current business address. Our office has advised plaintiff's attorney of this and has provided him with her correct business address by letter dated March 11, 2009 in order to assist with the proper service of Ms. Rodriguez-Torres. Upon information and belief, Ms. Rodriguez-Torres has not been served at the address provided.

PLEASE TAKE FURTHER NOTICE, that in accordance with the briefing schedule set by the Court, plaintiff is to serve his opposition papers no later than September 1, 2010, and defendants' reply papers are to be served no later than September 22, 2010.

Dated: New York, New York
July 21, 2010

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for the Defendants
100 Church Street, Room 2-315
New York, New York 10007
T: (212) 788-0870
E: janderse@law.nyc.gov

By: /s/
Jane E. Andersen
Assistant Corporation Counsel

TO: Anthony C. Ofodile
Ofodile & Associates, P.C.
498 Atlantic Avenue
Brooklyn, New York 11217

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Jane E. Andersen, declares, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that on July 21, 2010, she caused a true and correct copy of the foregoing NOTICE OF MOTION FOR SUMMARY JUDGMENT, dated July 21, 2010, to be served upon:

Anthony C. Ofodile
Ofodile & Associates, P.C.
498 Atlantic Avenue
Brooklyn, New York 11217

by regular mail, directed to same at the above address, and by ECF.

Dated: New York, New York
July 21, 2010

/s/

Jane E. Andersen
Assistant Corporation Counsel
100 Church Street, Room 2-315
New York, New York 10007
T: (212) 788-0870
janderse@law.nyc.gov

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NOTICE OF MOTION FOR SUMMARY JUDGMENT

MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
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the New York City Department of Education,
and Daysi Garcia
100 Church Street, Room 2-315
New York, N.Y. 10007*

*Of Counsel: Jane E. Andersen
Tel: (212) 788-0870
Matter #. 2009-006720*

Due and timely service is hereby admitted.

New York, N.Y., 201.....

..... Esq.

Attorney for.....